“A COMPARATIVE STUDY OF SOCIO-CULTURAL AND REGIONAL DIMENSIONS OF DIVORCE CASES FILED UNDER HINDU MARRIAGE ACT WITH SPECIAL REFERENCE TO NANDED SOLAPUR AND AKOLA CITY IN MAHARASHTRA”

SUBMISSION OF RESEARCH PROPOSAL (SYNOPSIS)

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1. Introduction:

Hindu law is thought to have the most ancient roots. Long before Manu Smruthi's time, dharma which derives from the word 'rita' had emerged. This gave rise to a more general notion of a morally upright set of obligations that was somewhat akin to the idea of social solidarity as defined by French jurist Leon Duguit[1]. This recurring theme persisted throughout the Dharmic canon, giving rise to the Sadachara, Vyavahara, and Dharma Sastras. In actuality, the entire Mababharatha is really a representation of the obligations that people have to one another[2]. One such idea that some western scholars have discussed is marriage. For example, Prof. J.D.M. Derrett argued that Hindu marriage is a pastime to a barbarian and a sacrament (samsakara) to a sage[3]. The explanation of the eight types of marriage that developed from Brahma to Paisachika serves as another illustration of this. Thus, until the Hindu Marriage Act of 1955 was passed, the idea of divorce was never included in Hindu law.

A happy married life is definitely the foundation for a successful family system. It does not imply that their sufferings should continue, but these days, young couples are divorcing for very minor reasons, also because of some ego problems, for trivial matters. Marriage is the foundation upon which the institution of the family is built. The family is the unit of society upon which the stability of social institutions and the superstructure of entire society would stand. The effective family structure must be maintained and safeguarded since it eventually creates a wholesome society, which aids

[1] Paul Arpit(2021), An Analysis of Leon Duguit's Theory of 'Social Solidarity', Indian Journal of Law and Legal Research, Volume III Issue I.
[2] Ibid.,
[3]Derrett J. Duncan M. (1963),Introduction to Modern Hindu Law, Oxford University Press, London.

in the advancement of the country. Therefore, it investigates the abuse of the Hindu Marriage Act of 1955's divorce provisions.

In the contemporary world, divorce is a significant component of each community's personal laws. Nowadays, no community in any nation views marriage as an irreversible union. How abundant it is and how much it is used are the only questions.

Marriage stability is essential to any community, but stability should not be mistaken for inseparability. Many research have attempted to address the reasons behind India's long-standing low divorce rate and its recent predicted rise. In the context of contemporary culture, the latter question divorce rates is the focus of the current study.

The fabric of Indian society is being impacted by these observable changes. Indian women are increasingly self-sufficient, pursuing professional occupations, and educating themselves. Women's and men's expectations for married life have increased due to the presence of Western influences, the internet, and cable and satellite television. As was previously the case, financial stability and reliance on men are no longer prevalent for the women. Professional women are becoming more self-assured and making their own decisions because to financial stability. However, due to the impact of Western laws and civilizations, this evolution is now harming the sacred institution of marriage, which is why separation and divorce rates are increasing in India.

Marriage used to be a major factor in Indian women's social standing, but these days, younger women are defying expectations and growing increasingly impatient of their partners. Unlike women in the past who accepted all that was thrown at them for the sake of honor, family, and society, many unhappy women and men now are choosing to end relationships. One of the main causes of many breakups is abusive relationships, where the women decide that enough is enough. Abuse and violence in relationships are no longer accepted. The women's families are likewise growing more tolerant.

Indian women are generally growing more demanding than their predecessors in terms of their physical, financial, and sexual needs. On the other hand, the stress, strain, and strain of Indian marriages in the twenty-first century are driving many unhappy Indian men to divorce women, which in turn is escalating their desire for personal autonomy. The changes in women are making it more difficult for them to adapt. Communication problems and extramarital affairs also play a part.

In Hindu society, a marriage was an unbreakable bond between a spouse[4]. Hindus considered marriage to be a holy, everlasting bond and a sacrament. Hindus were unaware of the divorce system prior to the Hindu Marriage Act of 1955[5]. Due to the powerful impact of Islam rule under Moghul during medial period in India and Christianity under British rule during modern period, as well as the shifting social dynamics brought about by girls increasing educational attainment, Hindu law also saw the need to require divorce[6]. According to Hindu tradition, a marriage is an unbreakable relationship. Nonetheless, increasing divorce rates point to a profound change in gender roles, social structures, individual goals, and legal knowledge.

Hindus who had converted to Christianity were able to get a divorce under the Native Coverts Marriage Dissolution Act of 1866[7]. Other laws, such as the Hindu Divorce Act of 1947 and the Hindu (Bigamy Prevention and Divorce) Act, also allowed divorces between Hindus, although these were only applicable in the provinces of Bombay and Madras, respectively[8]. On May 18, 1955, the Hindu Marriage Act went into effect, affecting all Hindus living in India, including those who were not citizens but had their homes there[9].

The word divorce is derived from the Latin word 'divortium,' which means diverse[10]. Traditionally, it was understood to mean that divorce is no more or less than any other name for dissolving a marriage; in common parlance, divorce means that the marriage is terminated by legal formalities, meaning that the parties return to their unmarried spouses by ending the vows they took during the sacred ceremony of marriage; divorce would permanently ruin the marriage life, and it would be difficult for children to deal with their parents being apart. An inventive modification to Shastric Hindu law was established by Section 13 of the Hindu Marriage Act, 1955. It allows for the breakdown of a marriage. However, it doesn't happen unless a court has approved it[11].

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[4] Gandhi B.M. (2008), Hindu Law, 3rd Edition , Eastern Book Company, Lucknow, P.No 297.

[5] The Hindu Marriage Act of 1955

[6] Pant P.C. (2001), Law of Marriage Divorce , 2nd Edition, 2001,Orient publishing Company.Delhi.

[7] A.G.Gupte (2011), Law of Marriage & Divorce with Allied Laws, 2nd Edition, Premier Publishing Company, New Delhi.

[8] Ibid.,

[9] Ibid.,The Hindu Marriage Act 1955.

[10] Zohara Khatoon v. Mohd. Ibrahim, (1981) 2 SCC 509 at 523: AIR 1981,

[11] The Hindu Marriage Act of 1955.

Since the Hindu Marriage Act of 1955 was passed, the laws pertaining to divorce have been changed twice: once by the Hindu Marriage (Amendment) Act of 1964 and again by the Marriage Laws (Amendment) Act of 1976[12]. The Marriage Laws (Amendment) Act of 1976 liberalized the divorce-related restrictions of the Hindu Marriage Act of 1955. Additionally, it established a new basis for divorce, which is mutual consent between the parties and is available as a matrimonial remedy under the Hindu Marriage Act of 1955[13].

As per the section 13 (1) of Hindu Marriage Act, 1955, either the husband or the wife may file petition in the court to end their marriage by issuing a divorce decree on any of the reasons listed below,

- The other party has voluntarily engaged in sexual relations with someone other than their spouse as per the section 13 (1) (i) of Hindu Marriage Act, 1955.
- As per the section 13 (1) (i) (a) of Hindu Marriage Act, 1955, the respondent mistreated the petitioner after they were married.
- As per the section 13 (1) (ib) of Hindu Marriage Act, 1955, for at least two years prior to the petition's presentation, the respondent consistently abandoned the petitioner.
- As per the Section 13 (1) (ii) of Hindu Marriage Act, 1955.The respondent left Hinduism and converted to another religion.
- As per the section 13 (1) (iii) of Hindu Marriage Act, 1955, it is impossible to conduct a married life with the respondent since they have been with an incurable mental illness for an indefinite period of time.
- As per the section 13 (1) (iv) of Hindu Marriage Act, 1955, the leprosy that the person has been afflicted with is severe and incurable.
- As per the section 13 (1) (v) of Hindu Marriage Act, 1955, the respondent has been affected with an infectious form of venereal illness.
- As per the section 13 (1) (vi) of Hindu Marriage Act, 1955,by joining a religious order, the individual gave up the world.
- As per the section 13 (1) (vii) of Hindu Marriage Act, 1955, it has been at least seven years since the respondent was last heard from.

[12] Nagpal Ramesh Chandra (1983) ,Modern Hindu Law, 1st Edition, Eastern Book Company, Lucknow. Page No.144.
[13] Ibid.,

Grounds for Divorce:

Section 13 of the Hindu Marriage Act, 1955, establishes three categories of grounds for divorce, which can be categorized as follows:

- Subsection (1) lays out nine grounds based on the 'fault-disability' theory of divorce, which only the 'aggrieved spouse' may use;
- Subsection (2) lays out two grounds based on the 'break down' theory of divorce, which either the 'aggrieved' or the 'guilty spouse' may use; and
- Four special grounds, which are only available to a wife.

Many people are choosing to end emotionally or physically unfulfilling marriages as a result of shifting social expectations. Despite being legal, the divorce process is heavily impacted by demographic, cultural, economic, and regional variables. Three cities in Maharashtr : Nanded, Solapur, and Akola represent different socio-economic and cultural environments in the Marathwada, Western Maharashtra, and Vidarbha regions, and are the subject of the current study. The main goal of this present comparative study is to understand how socio-legal factors influence divorce patterns under Hindu law.

2. Statement of the Problem:

While many studies have addressed divorce in metropolitan areas like Mumbai, Pune, Aurangabad and Nagpur limited academic and research focus has been given to semi-urban and tier-2 cities like Nanded, Solapur, and Akola. These three cities represent three region of Maharashtra.

Moreover, although the Hindu Marriage Act provides uniform grounds for divorce, its application and interpretation. It may vary based on regional values, education levels, economic independence, and cultural attitudes.

The main aim of this present study is to bridge the gap by conducting an in-depth comparative analysis of divorce cases filed under the Hindu Marriage Act in these three cities. It will determine whether socio-cultural and economic differences lead to variations in divorce trends, grounds invoked, and outcomes.

3. Significance of the Study:

According to Manu and others, Hindu marriage is traditionally regarded as the Dharma of a man's life. This refers to a lasting friendship between men and women, which characterizes a significant aspect of a man's spiritual life. Hindu Shastra states

that there are four stages of life: Brahmacharya, Grihasth, Vanaprastha, and Sanyasa. The second stage is represented by Grahastha Ashram, or married life. It permanently connects two people. The couple supports one another's spiritual development throughout the course of seven or more lifetimes. One of the sacramental elements of Hindu Dharma Shastras is Hindu marriage. Therefore, divorce is not recognized. The goals of marriage have changed in the modern world, including age, the dowry system, ceremonies and rituals, and partner selection.

The legal method of ending a marriage that was not included in Hindu Sastras is divorce. Divorce, then, is when couples pull away from one another. It is the official dissolution of a marriage. The number of divorces has doubled recently because of things like husband cruelty, harassment, mental illness, conversion to another religion, the significance of husbands, not being pregnant, willful fraud on the part of any party, and lying to each other in any way. As a result, the researcher investigates the abuse of the Hindu Marriage Act's divorce provisions.

4. Objectives of the Study:

The objectives of this study is to gain new understanding of divorce and to address all of its significant aspects in a thorough and comparable manner. The study's primary goal is to identify the different flaws in the following notions' object of logical, critical, and comparative investigation and determine their solutions.

a) To examine the quantity and type of divorce cases that have been filed in Nanded, Solapur, and Akola over the past 10 years under the Hindu Marriage Act, 1955.
b) To determine which legal reasons are most commonly used in divorce applications in various cities and to compare them.
c) To investigate the socioeconomic and demographic characteristics of the litigants, such as their age, income, education, and gender.
d) To evaluate the length of time, legal procedure, results, and settlement trends in divorce cases.
e) To make comparisons between the three regions' socio-legal practices and divorce-related attitudes.
f) To provide recommendations for policy reform, legal aid, and family counseling services based on the findings.

5. Research Questions:

The researcher will find out the answers of the following research questions during research work.

a) What are the most common grounds for divorce under Hindu law in the three cities?
b) What social and economic factors influence the decision to seek divorce in each region?
c) Are there differences in the initiation of divorce petitions by gender?
d) What is the average duration and outcome of divorce proceedings in Nanded, Solapur, and Akola?
e) How do cultural norms affect access to justice in family courts?

6. Hypotheses:

For the purpose of the present research study the following hypotheses are framed and will be examined.

a) There exists a significant variation in the nature and volume of divorce cases among the cities due to differing socio-cultural and economic conditions.
b) Cruelty and desertion are the most frequently cited grounds for divorce under the Hindu Marriage Act in all three regions.
c) A higher number of divorce petitions are initiated by women, especially among the educated and economically independent class.
d) The speed and nature of legal outcomes differ based on the infrastructure and efficiency of the family court in each city.

7. Scope and Limitations:

The present research study will focus only on divorce cases filed under the Hindu Marriage Act, 1955, between 2015 and 2025. The area of research is confined to the family courts and and District Legal Services Authority, of Nanded, Solapur, and Akola.

The study may face limitations in accessing confidential court documents. Litigants may be unwilling to provide detailed information during interviews due to emotional distress or social stigma. The findings may not be generalization to all of Maharashtra or India.

8. Research Methodology:

Doctrinal and non doctrinal both method will be used for this present research study.

Data Collection:

Primary and secondary data will be used to testing hypothesis or answer the research questions.

Primary Data:

Primary data will be collected through interviews with litigants, lawyers, mediators, and judges (with prior consent) as well as observation of court proceedings (as permitted). For this purpose, structured interview method will be used.

Secondary Data:

References like law journals, publications, articles, news pieces, commentary, and textbooks, among other materials will be used. Attending local courts and mediation centers will be visited to observe decisions made by local family courts, DLSA proceedings, including counselor-led mediation, Permanent Lok Adalats Orders, etc will be studied. Prominent academic opinions regarding judges current opinions as stated in their rulings will also be examined.

The law journals and law reporters like the All India Reporter and Supreme Court Cases are used as main sources of information.

Sampling:

Purposive sampling of at least 100 divorce cases from each city. Samplings selection will be based on criteria such as type of ground, age of victim or litigant, income, gender of petitioner, and case outcome.

Data Analysis:

Qualitative content analysis method will be used for court judgments and interviews. Statistical tools such as percentages, cross-tabulations, and graphs to show comparative trends. Thematic analysis will be used for recurring patterns and regional differences.

9. Review of Literature:

Any researcher's work cannot be considered finished unless the literature on the subject is discussed. The most crucial part of the study is reviewing the existing literature before beginning the current one. This will help you grasp the topic’s

necessity and significance, as well as its various facets, identify the current issue, and outline the approach for the researcher in the same context. Therefore, the current work's literature evaluation is crucial to proving the necessity of the topic's investigation.

Several national and international scholars have contributed significantly to the understanding of marriage and divorce in socio-legal contexts.

Kane, Pandurang Vaman in his book, "*History of Dharamsastra, Vol I, II, III,*" discussed the Ancient and Medieval India. Syed Tahir Mahmood in *"Personal Laws in Crisis, (1986),"* discussed the constitutional framework on the personal laws with reference to Muslim and Hindu personal laws in India. Dr. Paras Diwan in his book *"The Hindu Code, (1994)"* discussed all the forms of Marriage along with Divorce. P. Rathnaswamy in his book *"Marriage, Divorce and Morality (1999)"* examined the modern concept of Marriage and Divorce.

Aqeel Ahmad in his book *"Mohamedan Law, (2002)"* discussed the aspect of Muslim Marriage and Divorce. Mulla's *"Principle of Mahomedan Law, (2003)"*is the main allure in the Muslim Law as he was discussed both laws applied in India as well as In Pakistan. Janak Raj Janak in his book *"Divorce Law and Procedure, (2004)'* discussed the various laws on Divorce and Available procedure for it. Dr. Sebastian Champappilly's *"Christian Law of Divorce, (2007)"* presented detail evolution of Divorce in English Law. Dr. Basant K. Sharma in his book *"Hindu Law, (2011)"* discussed the various laws of Hindu marriage and law relating to Hindu Divorce.□ Dr. U.P.D.Kesari in his book *"Modern Hindu Law, (2011)"* has elaborated ancient and Modern Laws along with the amendments and case laws.

Professor Kusum in her book *"Family Law-I and Family Law-II, (2013)"* discussed the comparative study of marriage and divorce under the various personal laws applicable in India. Professor Kusum Desai in her book *" Indian law of Marriage and Divorce, (2013)"* discussed a comparative analysis of law under various personal Acts of marriage and Divorce. Professor Kusum in her book *"Family Law, (2017)"* discussed the comparative study of personal laws with special reference to case laws and amendments. Mulla‟s *"Hindu Law, (2019)"* has a unique presentation of the comparative aspect of Hindu Laws.

Mulla's *" Principle of Mahomedan Law, (2019)"* discussed the tyranty of *Triple Talaq* along with the guidelines issued by the Supreme court in the *Shayara Bano case.* Mayne's *"Hindu Law, (2019)"* discussed the various aspect of Hindu Law in the

present time along with Commentaries. Flavia Agnes (2000) in his book *'Law and Gender Inequality: The Politics of Women's Rights in India'* critically analyzed gender perspectives in marriage and family laws, emphasizing the role of courts in shaping matrimonial disputes. T. S. N. Sastry (2012) provided a detailed exposition of the Hindu Marriage Act and its practical implementation in Indian courts.

Law Commission Reports (particularly Reports No. 71, 217, and 259) have dealt extensively with reforms in family law and addressed issues concerning irretrievable breakdown of marriage and delays in justice delivery.

Libertad, Gin his book entitled 'The Social Effects of Divorce Laws'. He studied research on the social effects of divorce laws demonstrates that recent changes to the law have an effect on society everywhere. Furthermore, data demonstrates that the implementation of unilateral, no-fault divorce increased divorce rates and had some detrimental consequences on children born just before the legislative changes and families caught in the transition. An increase in divorces can occasionally indicate that at least one of the divorcing couples is benefiting. Additionally, researchers point out that no-fault divorce increases marital savings and may reduce domestic violence, indicating that these reforms' overall long-term impacts are probably going to improve welfare. In addition, recent changes that support shared child custody appear to have promoted fertility and marriage. There are two final considerations before studies end. First, beyond the rates of marriage and divorce, it is evident that family law can influence a wide range of social outcomes. The societal impact of changes to divorce legislation must be taken into account. Second, additional study is required to determine how simple divorce affects child outcomes both immediately and over time.

After the review of literature it is necessary to discuss the path of the study that how this work present and how the research will move on further. For such reason the researcher has divided this study into the following chapter scheme.

10. Chapter Scheme:

Here the present research work is divided into seven chapters with relation to specific explanation of the topic and discussed the detailed aspects under the specific heads so that the work should be easy to understand and become fruitful.

1. Introduction:
2. Historical Perspective of Marriages in Hindus.
3. Conceptional study of dissolution of Marriage in Hindus.
4. Legal Framework of Marriage and Divorce under Hindu Marriage Act.
5. Divorce Cases in Nanded, Solapur and Akola.
6. Comparative Analysis of divorce cases in Nanded, Solapur and Akola.
7. Conclusions, Suggestions, and Policy Recommendations.

The detail outline of the all chapters as follow.

Chapter 1: Introduction:

This chapter covers the study's history, an outline of Indian marriage customs, especially those governed by Hindu law, the value of families as social institutions, The study's goals are to compare and examine divorce cases in the chosen cities in order to find trends, causes, consequences, scope, and limitations.

It covers the problem statement highlights the necessity for regional analysis due to the rise in divorce cases and litigation-the research methodology; -the tools and techniques employed; -case analysis, interviews, statistical evaluation, the study's significance, the research questions and hypotheses, scope and the study's limitations and scope, and -the chapter scheme.

Chapter 2: Historical Perspective of Marriages in Hindus:

Hindu marriage's transition from a religious rite to a contractual one is covered in this chapter. The traditional Hindu perspective, which encompasses the cultural and religious customs that regulate Hindu marriage. The status of women in marriage, including how traditional norms and ancient writings have influenced them. Change across time, including post-independence adjustments and improvements during the colonial era.

Chapter 3: Conceptual Study of Dissolution of Marriage in Hindus:

The theoretical framework is covered in this chapter. The contractual and sacramental aspects of marriage, as well as reasons for divorce, such as cruelty, desertion, adultery, conversion, etc. The function of personal law and customs: pre-codified customs around divorce. Important Supreme Court and High Court rulings that have shaped the law are examples of judicial interpretation.

Chapter 4: Legal Framework of Marriage and Divorce under the Hindu Marriage Act :

It covers the following topics: void and voidable marriages, conditions, ceremonies, and registration. legal ramifications and justifications, Provisions for Divorce: statutory justifications under Judicial Separation & Restitution of Conjugal Rights, Sections 13, 13A, 13B, case legislation and legal remedies, Reforms and Amendments: Important modifications made after legislation.

Chapter 5: Divorce Cases in Nanded, Solapur, and Akola:

The overview of Family Courts is covered, including their jurisdiction, process, and case disposal pattern. Analysis of Statistical Data: Divorce filings by year in every city, Age, gender, education, occupation, length of marriage, and demographic profile The following are the main reasons for divorce: relative frequency, brutality, desertion, Judicial Trends: Common rulings and awards made in every area.

Chapter 6: Comparative Analysis of Divorce Cases in Nanded, Solapur, and Akola:

It covers the following topics: Nature and Grounds: Similarities and Differences in Grounds Invoked, Case Disposal Rates and Judicial Efficiency, Counseling & Mediation Services, Socioeconomic Comparison, and the Impact of Regional Factors

on Divorce Trends. Patterns of Gender in Litigation: Who Files for Divorce More Often and Why Regional Elements Affecting Divorce: Economic independence, education, urbanization, etc.

Chapter 7: Conclusions, Suggestions, and Policy Recommendations:

It discusses the Summary of Results: key findings from empirical and theological research, Conclusions: inequalities by region, shared causes, legal loopholes, Ideas: Improving awareness campaigns, mediation, and quick disposal methods Policy Suggestions: For the judiciary, family welfare organizations, and legislators, Future Research Scope: expansion to further locations, involvement of other faith communities, and post-divorce concerns like as support and custody.

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- Zohara Khatoon v. Mohd. Ibrahim, (1981) 2 SCC 509 at 523: AIR 1981.

B. Acts:

- Child Marriage Restraint Act 1929
- Christian Marriage Act 1872
- Constitution of India 1950
- Dissolution of Muslim Marriage Act 1939
- Divorce Act 1869

- Dowry Prohibition Act 1961
- Hindu Marriage (Amendment) Act 1976
- Indian Divorce Act 2001
- Parsi Marriage Act 1936
- Special Marriage Act 1954
- The Hindu Marriage Act of 1955.

C. Journals:

- All India Reporter
- Delhi Law Times
- Divorce Matrimonial Cases.
- Indian Bar Review
- Journal of Legal Studies Economic & Political Weekly times.
- Kurushetra Law Journal Academia
- Supreme Court Journals
- Vidhiya: A Legal Journey

D. Newspapers:

- Times of India
- Hindustan Times
- Dainik Jagaran
- The Hindu
- Nav Bharat Times